



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/319,736	08/02/99	WOLPERT	E 000500-182

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EXAMINER

LACOURCIERE, K

ART UNIT

PAPER NUMBER

1635

DATE MAILED:

#11
12/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

See attachment

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DETAILED ACTION

The amendment filed on 09-18-2000 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the newly directed claims are drawn to a multitude of inventions, none of which are drawn to the subject matter elected by original presentation. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. See MPEP § 821.03.

As originally presented, claims 1-5 were directed to a use, which is non-statutory, and could not be examined further on the merits. Claims 6-8 are directed to cells. Claims 10 and 11 were generally incomprehensible, making it difficult to determine what the claimed kit or pharmaceutical composition being claimed actually comprised. Claim 11 is directed to kits which comprise substances which induce antigens and epitopes and claim 12 is directed to pharmaceutical compositions which comprise substances which induce antigens and epitopes. Claim 9 appeared to be directed to a method of making the cells of claims 6-8 and claim 12 appeared to be drawn to a method of using the cells of claims 6-8.

Applicant has stated that none of the newly submitted claims are directed to the subject matter of claims 6-8.

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The newly submitted claims directed to kits (claims 129-142) comprise cells expressing antigens and epitopes associated with impaired cellular processing or antigens and epitopes associated with impaired cellular processing or agents which inhibit antigens and epitopes associated with impaired cellular processing. None of the claimed kits comprise the substances which the originally claimed kits comprise.

The newly submitted claims directed to pharmaceutical compositions (claims 65-73, 105-110 and 112-113) comprise agents which impair cellular peptide processing or cells specific for antigens and epitopes associated with impaired cellular processing or cells expressing antigens and epitopes associated with impaired cellular processing. None of the newly claimed pharmaceutical compositions comprise the substances comprised by the originally presented claimed pharmaceutical composition.

The remainder of the newly presented claims are directed to methods, none of which comprise the same methods steps of the originally presented method claims (claims 9 and 12), nor are the newly claimed methods directed to methods which achieve the same outcome as set forth by the originally claimed methods (induction of antigens and epitopes associated with impaired cellular processing (claim 9) and treating, preventing and diagnosing cancer (claim 12)). Therefore, the newly claimed methods are not directed to the same method as originally presented.

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It is noted that Applicant has not demonstrated that any of the newly presented claims correspond to any of the originally presented claims, nor that any of the newly presented claims is directed to subject matter which was elected by original presentation.

Additionally, applicant has pointed generally to the specification for support for the newly submitted claims. Given the large number of new limitations presented, it would not be feasible to find all the new limitations without specific guidance, with respect to lines and passages within the specification, as required. To avoid a rejection due to new matter, if the applicant should submit new claims directed to the elected subject matter (or demonstrate that any of the claims newly submitted with the response filed 09-28-2000), specific support for the limitations of these claims should be pointed out.

A representative of the PCT at the PTO, SPRE Julie Burke, was consulted in regard to 371 lack of unity practice in the instant case. It was confirmed that none of the newly presented claims appear to be drawn to the subject matter of the originally presented invention.

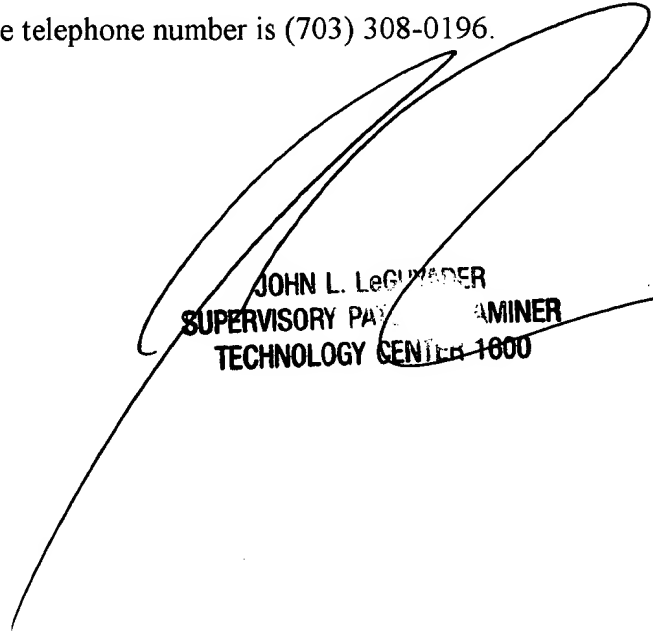
Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen A. Lacourciere whose telephone number is (703) 308-7523.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader can be reached at (703) 308-0447. The fax phone number for this Group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.



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EXAMINER

Karen A. Lacourciere

December 1, 2000